



## CITY COUNCIL AGENDA ITEM

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Date: March 31, 2014

To: Brian Kischnick, City Manager

From: Aileen Bittner, City Clerk  
Gary Mayer, Police Chief

Subject: Do-Not-Knock Ordinance (Introduced by: Aileen Bittner, City Clerk)

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### **History**

Chapter 74 – Solicitations regulates both commercial and charitable solicitations within Troy. Charitable solicitations require a Charitable Solicitation Permit, are conducted by nonprofit organizations, and can be either stationary (for example, in front of a retail establishment) or door-to-door. Commercial solicitations require a Peddler’s Permit, are conducted by for-profit entities, and are limited to door-to-door. Chapter 74 does not prevent political and/or religious speech, as those are considered protected speech and are not considered “solicitations”.

Over the last few years, some communities have adopted what are known as “Do-Not-Knock” ordinances. Residents can register their addresses on a voluntary basis, either in writing or via the website, to be included in the registry. Copies of the registry list are then provided to all charitable and for-profit solicitors with their permits. The registry lists the addresses that are off-limits to solicitations. In essence, the “Do-Not-Knock” list enables residents to choose whether or not they want solicitors to knock at their doors.

The Police Department conducted extensive research into the effectiveness and difficulties other communities have encountered after adoption of “Do-Not-Knock” ordinance amendments. The Police Department supports the “Do-Not-Knock” ordinance amendment to Chapter 74 for three main reasons. First, this amendment gives relief to the residents who do not want solicitors at their doors. Second, this ordinance is another tool for police officers to use in maintaining the tranquility our residents enjoy. Third, solicitors should be able to easily comply with this ordinance.

Should City Council approve this amendment, and upon the effective date, the City Clerk’s Office will advertise the registry extensively so that residents will have plenty of time to register before the summer influx of solicitors. The City Clerk’s Office is prepared to offer a simple registration process for Troy residents either via the website or using paper forms. Additionally, upon the effective date, all current solicitors will begin receiving the registry list.

In addition to the “Do-Not-Knock” amendment to Chapter 74, there is an amendment to the time allowed for soliciting. City Administration felt that reducing the hours according to a seasonal schedule will still allow ample time for soliciting, but will give our residents more security (especially in the winter when it gets dark very early.) The proposed hours for soliciting are 9:00 AM-6:00 PM from October 1<sup>st</sup> through March 31<sup>st</sup>, 9:00 AM-8:00 PM from April 1<sup>st</sup> through September 30<sup>th</sup>.



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In Section 6c, the regulation has been struck that prevented more than one charitable organization to solicit at any one location at a time. This regulatory function will be transferred to the individual business owner since these solicitations take place on private property and the City Clerk's Office requires property owner permission before the permit is granted. Other amendments suggested to this chapter are considered housekeeping amendments.

For reference, a redlined copy of Chapter 74 – Solicitations is included with this memo.

### **Purchasing**

There are no Purchasing items to consider.

### **Financial**

There are no financial considerations.

### **Recommendation**

City Administration recommends amending Chapter 74 – Solicitations to include the "Do-Not-Knock" registry and other amendments. The amended chapter will take effect 10 days after publication.

### **City Attorney's Review as to Form and Legality**

\_\_\_\_\_  
Lori Grigg Bluhm, City Attorney

\_\_\_\_\_  
Date

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### 1. General Provisions.

It is hereby determined that regulation of all types of solicitation and peddling are sufficiently connected to the City's interest in preventing crime and protecting citizens' quiet enjoyment and peace. It is also determined that a significant connection among evening solicitation, evidence of nighttime crime, and disruption of citizens' quiet enjoyment and peace exists to limit all types of solicitation according to the following schedule: October 1<sup>st</sup> through March 31<sup>st</sup> the hours are 9:00 AM until 6:00 PM; April 1<sup>st</sup> through September 30<sup>th</sup> the hours are 9:00 AM until 8:00 PM. ~~to between 9 o'clock in the forenoon and 9 o'clock in the afternoon.~~ It is further determined that the City has no other less restrictive means available to achieve its objectives. It is further determined that a ban on solicitation outside the aforementioned hours ~~after 9 o'clock in the afternoon and before 9 o'clock in the forenoon~~ leaves ample alternative channels of communication open to solicitors in the City.

### 2. Definitions.

The following words and phrases when used in this Chapter shall have the meanings respectively ascribed to them:

- (a) "Solicit" and "solicitation" shall mean the request of money, credit, property, financial assistance or other thing of value by telephone, personal interview, or otherwise on the plea or representation that such money, credit, property, financial assistance or other thing of value, or any part thereof, will be used for a charitable, religious, patriotic, civic, educational, or philanthropic purpose. The said words shall also mean the placing of canisters for the receipt of money in business establishments or other public places. The said words shall also mean and include the sale or offer to sell any article, tag, ticket, emblem, publication, advertisement, subscription, or other thing, whether of value or not, on the pleas or representation that such money, credit, property, financial assistance, or other thing of value, or any part thereof, whether received by the solicitor or purchased by the buyer, will be used for a charitable, religious, patriotic, civic, educational or philanthropic purpose.
- (b) "Peddler" shall mean any person traveling by foot, wagon, automotive vehicle or other conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale or making sales and delivering articles to purchasers, or who takes or attempts to take orders for sale of goods, wares and merchandise, books or magazines, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not. Any person who solicits orders and as a separate transaction makes deliveries to purchasers as part of a scheme or design to evade the provisions of this Chapter, shall be deemed a peddler. The word "peddler" shall include the words, "hawker", "huckster" and "canvasser". The word "peddler" shall not include agents of utility companies or firms franchised by referendum of the electorate of the City of Troy or agents of such firms governed by franchise ordinance(s) enacted by the City Council of the City of Troy

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following an affirmative advisory vote on the question by said electorate.

- (c) "Person" shall mean any individual, firm, co-partnership, corporation, company, association or joint stock association, church, religious sect, religious denomination, society, organization or league, and includes any trustee, receiver, assignee, agent or other similar representative thereof.
- (d) "City Clerk" shall mean the individual employed as City Clerk of the City of Troy, or his authorized deputy.

### 3. Permit or license required; exception.

No person shall solicit or peddle for any cause whatsoever, except as otherwise provided in this Chapter, within the City of Troy, without a permit or license from the City Clerk, authorizing such solicitation or peddling. Provided, however, that the provisions of this Chapter shall not apply to solicitations conducted exclusively within the membership of an organization by its own officers and members.

### 4. Application; contents.

Applications for permits for noncommercial solicitation filed with the City Clerk upon forms to be furnished by the City Clerk. The application shall contain the following information, or in lieu thereof, a detailed statement of the reason why such information cannot be furnished. Such applications for permit to solicit shall be sworn to and filed with the City Clerk not less than twenty-one (21) days prior to the time when the permit is desired:

- (a) Name, address, telephone number and headquarters of the person applying for the permit.
- (b) If the applicant is not an individual, the names and addresses of the applicant and the principal officers and managers.
- (c) The purposes for which such solicitation is to be made and the use or disposition to be made of any receipts therefrom; or property purchased if the same is to be distributed by solicitor.
- (d) The names and addresses of the person, or persons, who will be in direct charge of conducting the solicitations.
- (e) An outline of the method, or methods, to be used in conducting the solicitations.
- (f) The time when such solicitation shall be made, giving the proposed dates for the beginning and ending of such solicitations and the hours of the days thereof.
- (g) Such other information as may be required by the City Clerk for him to determine the kind or character of the proposed solicitation and whether such solicitation is in the interest of, and not inimical to, the public welfare.

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- (h) In the event that information otherwise available to the City Clerk is deemed by him to be sufficient to permit him to make a determination pursuant to the provisions of this Chapter, he may authorize a license application which does not contain all or any part of the information required under this Section.

(Rev. 02-22-1988)

5. Filing false application.

It shall be a violation of this Chapter for any person knowingly to file or to cause to be filed an application containing one or more false statements.

6. Standards in consideration of permits. The City Clerk shall authorize the permit required by this Chapter whenever he shall find the following facts to exist:

- (a) That the applicant is a person who is, as a matter of fact, engaged in charitable, patriotic, civic, educational, philanthropic or religious activity, or engaged in raising funds for distribution to such persons or organizations.
- (b) That the net proceeds derived from the solicitation authorized under the permit shall be used substantially for charitable, civic, educational, patriotic, philanthropic or religious purposes.
- (c) That the solicitation by the applicant will not become an annoyance or a nuisance to the citizens of the City ~~or that such solicitation in no way conflicts with the solicitation of any other person or organization previously authorized.~~ Such solicitation will inure to the benefit of the citizenry of the City.
- (d) That the net proceeds over reasonable expenses, derived from the solicitations authorized under the permit shall be used exclusively for charitable, civic, educational, patriotic, philanthropic or religious purposes.
- (e) That none of the proceeds derived from the solicitations authorized by the permit will be divided in any manner with persons who actually make the solicitations.
- (f) That the proceeds of the solicitations authorized by the permit will not be divided or in any manner shared, either directly or indirectly, with any person or organization other than the applicant for the permit or the organization for whose benefit the solicitation is made.

7. Peddling license required.

No person shall engage in the business of peddler without first obtaining a license therefor. No such license shall be granted except upon certification of the Chief of Police.

(Rev. 02-22-1988)

8. Peddling license application.

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The initial application shall furnish the following information:

- (a) Name and physical description of applicant;
- (b) Permanent home address and full local address of the applicant;
- (c) Drivers license number;
- (d) A brief description of the nature of the business and the goods to be sold;
- (e) If employed, the name and address of the employer, together with credentials establishing the exact relationship;
- (f) The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time said application is filed, and the proposed method of delivery;
- (g) A photograph of the applicant, taken within sixty (60) days immediately prior to the date of the filing of the application, which picture shall be 2" x 2" showing the head and shoulders of the applicant in a clear and distinguishing manner;
- (h) The fingerprints of the applicant;
- (i) A statement as to whether or not an applicant has been convicted of any felony, or any misdemeanor or Municipal Ordinance violation, involving moral turpitude.

### 9. Peddling license fees.

The fees for a Peddler's License shall be as specified in Chapter 60 of this Code. No fee for a Peddler's License shall be so applied as to occasion an undue burden upon interstate commerce. In any case, where a license fee is believed by a licensee or applicant for a license to place an undue burden upon interstate commerce, he may apply to the City Manager for an adjustment of the fees so that it shall not be discriminatory, unreasonable, or unfair as to such commerce. Such application maybe made before, at or within six (6) months after payment of the prescribed license fee. The applicant shall, by affidavit, and supporting testimony, show his method of business and gross volume or estimated gross volume of business and such other information as the City Manager may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The City Manager shall then conduct an investigation, comparing the applicant's business with other businesses of like nature and shall make findings of fact from which he shall determine whether the fee fixed for the Peddler's License is unfair, unreasonable or discriminatory as to the applicant's business and shall fix as the license fee for the applicant, an amount that is fair, reasonable and nondiscriminatory, or, if the fee has already been paid, shall order a refund of the amount over and above the fee so fixed. In fixing the fee to be charged, the City Manager shall have the power to base the fee upon a percentage of gross sales, or any other method which will assure that the fee assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the fee as prescribed by Chapter 60 of this Code. Should the City Manager determine the gross sales measure of the fee to be the fair basis, he may require the applicant to submit, either at the

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time of termination of applicant's business in the City of Troy or at the end of each three-month period, a sworn statement of the gross sales and pay the amount of fee therefor, provided that no additional fee during any one license year shall be required after the licensee shall have paid an amount equal to the annual license fee as prescribed in Chapter 60 of this Code.

(Rev. 02-22-1988)

10. Contents.

Permits and licenses issued under this Chapter shall bear the name and address of the person by whom the solicitation is made, a copy of the photo submitted with the peddler application, the date issued, the dates within which the permit holder may solicit, and a statement that the permit does not constitute an endorsement by the City of the purpose of the solicitation or of the person or group conducting the solicitation. All permits and licenses shall be signed by the City Clerk and sealed with the official seal of the City of Troy.

11. A copy of the permit or license must be carried by each solicitor or peddler. Solicitation or peddling without a valid permit or license or a copy of the permit or license is a misdemeanor, punishable by a fine of up to \$500, 90 days in jail, or both.

12. Expiration.

~~A solicitation permit shall not be issued for a period exceeding one calendar year. The dates within which the permit holder under this Chapter may solicit shall be determined by the City Clerk; provided that no permit shall grant the right to solicit for a longer period than ninety (90) days.~~

13. Nontransferable.

Any permit or license approved and issued under this Chapter shall be nontransferable; provided, however, that this shall not prevent any permittee from using any number of solicitors and representatives and provided, further, that the City Clerk shall require that each solicitor and representative shall carry a facsimile copy of such permit while engaged in solicitation.

(Rev. 02-22-1988)

14. Misrepresentation of Endorsement by City.

No person shall represent that the granting of a permit or license under this Chapter is an endorsement by the City of the particular organization involved, and any such representation is hereby declared to be a misrepresentation of fact and subject to the provisions for revocation of the permit.

15. Revocation.

If, upon receipt of written information or upon his own investigation, the City Clerk has reason to believe that any officer, agent or representative of a permittee is misrepresenting the facts or made untrue statements, or has misrepresented facts or making untrue statements, either with

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words or by implication, with regard to solicitations or the purposes thereof, or has made untrue statements in the application, or that in any other way the solicitations have been conducted, including a failure to carry a copy of the permit, in violation of any part of this Chapter and not in conformity with the intent and purpose of this Chapter, then the City Clerk shall immediately suspend such permit and shall cause notice thereof to be mailed to the permit holder.

If any agent or representative of the permittee is misrepresenting or making untrue statements with regard to the solicitation, or has made untrue statements in the application, or in any other way the solicitation is being conducted in a manner inimical to the protection of the public health, safety or welfare of the citizens of the City of Troy, or in violation of any of the provisions of this Chapter or of any statute of the State of Michigan, or any other Ordinance of the City of Troy, or is representing in any way that any permit granted hereunder is endorsement of such solicitation, then the City Clerk may suspend the permit or revoke same.

One conviction of a solicitor or peddler for the permittee within a one (1) year, three-hundred and sixty-five (365) day time span, for violations arising out of the manner, style or content of the solicitation shall be grounds for suspension or revocation of the permit or license.

Further it shall be a violation serving as grounds for suspension or revocation of such licenses for any permittee or licensee or his representative to enter upon property which is posted as prohibiting solicitors.

Further, it shall be a basis for revocation or suspension of said permit as well as a misdemeanor punishable by a fine of up to \$500, 90 days in jail, or both when the permittee or its solicitors fail to leave premises when asked by owner or occupant to do so.

16. Fixed stands prohibited.

No license shall stop or remain in any one place upon any street, alley or public place, longer than necessary to make a sale to a customer wishing to buy. Any peddler using a vehicle, when stopped, shall place his vehicle parallel to and within twelve (12) inches of the curb and shall depart from such place as soon as he has completed sales with customers actually present.

17. Practices prohibited.

No peddler shall shout or cry out his goods or merchandise, nor blow any horns, ring any bell or use any other similar device to attract the attention of the public. The practice by a peddler of going in and upon private residences in the City of Troy, State of Michigan which has posted a "No Solicitation" sign, or its equivalent, or whose address is at that time on the Do-Not-Knock Registry, for the purpose of soliciting orders for the sale of goods, wares and merchandise, and/or for the purpose of disposing of and/or peddling or hawking the same is hereby declared to be ~~a nuisance and punishable as such nuisance as a misdemeanor~~ in violation of this ordinance.

18. Curb service prohibited.

No person shall operate or maintain any stand, vehicle, store or place of business on or near to any highway in such a manner that the customers or traders with such person occupy or

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congregate within the limits of any street, lane, highway, or public place within the City. No person shall be permitted to use the streets, alleys, lanes or public places of the City for the service of customers or for the transaction of business, or to use any stands, stores or other places of business in any manner that shall require the customer, when transacting said business, to stand within the limits of the streets, highways, alleys or public places of the City.

(Rev. 02-22-1988)

### 19. Prohibited areas.

No peddler, in the sale of goods, wares and merchandise, shall obstruct any street, alley, sidewalk or driveway except as may be necessary and reasonable to consummate a sale nor remain, barter, sell offer or expose for sale any goods, wares or merchandise in front of or at the side of any property against the wish or desire of the property owner or the tenant or occupant of such property. No peddler shall engage in peddling on any street, alley or public place after having been requested to desist by any police officer of the City because of congested or dangerous traffic conditions. No peddler shall engage in business on any State trunk line highway or County road within the City. No peddler shall engage in business in a commercially zoned district outside of any building.

### 20. Other prohibitions.

Solicitations and peddling upon the street and public highways of the City are expressly prohibited at any time. No peddler or solicitor shall enter onto property which has posted a "No Solicitation" sign, or its equivalent, or whose address is at that time on the Do-Not-Knock Registry.

### 21. Hours of peddling and solicitation.

No peddling or solicitation, as defined by this Chapter, may be conducted in residential areas before 9:00 AM and after 6:00 PM from October 1<sup>st</sup> through March 31<sup>st</sup>, and after 8:00 PM from April 1<sup>st</sup> through September 30<sup>th</sup>.~~after 9 o'clock in the afternoon or before 9 o'clock in the forenoon.~~

No peddling or solicitation, as defined by this Chapter, may be conducted in commercially or otherwise zoned district except during the normal business hours of the establishment in which the peddling is taking place. If said establishment is not otherwise open for business, there shall be no peddling before 9:00 AM and after 6:00 PM from October 1<sup>st</sup> through March 31<sup>st</sup>, and after 8:00 PM from April 1<sup>st</sup> through September 30<sup>th</sup>.~~after 9 o'clock in the afternoon and before 9 o'clock in the forenoon.~~

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In all other areas of the City, peddling and solicitation shall be prohibited before 9:00 AM and after 6:00 PM from October 1<sup>st</sup> through March 31<sup>st</sup>, and after 8:00 PM April 1<sup>st</sup> through September 30<sup>th</sup>.~~after 9 o'clock in the afternoon and before 9 o'clock in the forenoon.~~

### 22. Establishment of Do-Not-Knock Registry

The City Clerk shall establish and maintain the Do-Not-Knock Registry.

Any person in lawful possession and occupancy of any residence, house, apartment, or other dwelling within the City may request that the City place and maintain his or her residence, house, apartment, or dwelling on the Do-Not-Knock Registry by submitting a written request on a form supplied by the City Clerk. The written request shall contain the following:

- (a) The name of the person completing the form.
- (b) The complete address of the residence, house, apartment, or dwelling to be placed on the registry.
- (c) The date the form was completed.
- (d) A statement that solicitors and/or peddlers shall not knock, ring the doorbell, or otherwise physically call at his or her residence, house, apartment, or dwelling.
- (e) Any other information reasonably required by the City to verify the identity of the person completing the form as a lawful occupant and possessor of the residence, house, apartment, or dwelling.

23. Re-registering on the Do-Not-Knock Registry

Every person who requests that the City place and maintain his or her residence, house, apartment, or dwelling on the Do-Not-Knock Registry shall be required to re-register his or her residence, house, apartment, or dwelling every five years. Any residence, house, apartment, or dwelling that is not re-registered shall be removed from the registry pursuant to Section 24.

24. Removal from Do-Not-Knock Registry

Any person in lawful possession and occupancy of any residence, house, apartment, or other dwelling within the City may request that the City remove his or her residence, house, apartment, or other dwelling from the Do-Not-Knock Registry by submitting a written request on a form supplied by the City Clerk. The written request shall contain the following:

- (a) The name of the person completing the form.
- (b) The complete address of the residence, house, apartment, or dwelling to be removed from the registry.
- (c) The date the form was completed.
- (d) A statement that his or her residence, house, apartment, or dwelling shall be removed from the Do-Not-Knock Registry.
- (e) Any other information reasonably required by the City to verify the identity of the person completing the form as a lawful occupant and possessor of the residence, house,

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apartment, or dwelling.

After being placed on the Do-Not-Knock Registry, a residence, house, apartment, or other dwelling shall remain on the registry until one of the following occurs:

- (a) The City Clerk receives a written request to remove the residence, house, apartment, or dwelling from the registry pursuant to this Section.
- (b) The City receives written notice that that person who submitted the request to have the residence, house, apartment, notice, or dwelling added to the registry pursuant to Section 22 is no longer a lawful possessor or occupant of the premises.
- (c) The expiration of five calendar years, expiring on December 31 of the fifth full calendar year, from the date of the form submitted pursuant to Section 22.

### 25. Copies of Do-Not-Knock Registry

The City Clerk shall provide a copy of the then-current Do-Not-Knock Registry to each person issued a peddler's license or door-to-door solicitation permit pursuant to this chapter. A copy of the Do-Not-Knock Registry shall also be available for public inspection in the City Clerk's office during regular business hours.

The failure to add a residence, house, apartment, or other dwelling to the Do-Not-Knock registry, or to remove a residence, house, apartment, or other dwelling from the registry, shall not be grounds for any claim against the City.

226. A violation of any of the sections of this Chapter is a ~~misdemeanor~~municipal civil infraction, punishable by a fine of up to \$500~~, 90 days in jail, or both.~~

(Rev. 02-22-1988)